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A PLAN FOR SPECIAL
EMPHASIS EMPLOYMENT PROGRAMS

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INTRODUCTION

This paper discusses a plan to consolidate and improve the Commission's activities with respect to filling positions under Title VII of the Civil Rights Act, the Veterans Preference Act, Presidential directives on placing returned Viet Nam veterans and rehabilitated prisoners, those Acts forbidding discrimination against the handicapped, and any other special emphasis programs.^{1/} It also discusses the use of excepted appointing authority and a variety of special selection methods for those occupations where the CSC has developed evidence of adverse impact.

The Civil Service Commission is producing substantial amounts of data on the hiring of women and minorities which provide new insights. The data is now in sufficient detail that we do not need to generalize as was necessary in the past. Detailed data is available both on the 1975 and 1976 makeup of the work force, and on the accessions which occurred in 1976.

Based on preliminary reviews of that data, I am of the opinion that the state of affirmative action varies enormously from occupation

^{1/} See Attachment "B" for a list of programs that have been emphasized over the years.

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to occupation. I have, therefore, requested detailed analyses of those 140 occupational categories in which there are at least 2000 employees. I am also of the opinion that there is considerable presumptive evidence of an historical and perhaps current pattern of adverse impacts in many occupations. Our data on the handicapped is not of the same quality, but as it improves corrective efforts can be initiated. Other Commission studies have documented a highly credible record on the hiring of veterans including Vietnam veterans. I anticipate that the record of veteran placements will remain strong under these proposals.

In the material which follows I suggest a means for focusing the Commission's affirmative action efforts to include

- (a) The establishment of criteria for determining when there is evidence of an adverse impact which necessitates use of special authorities.
- (b) Use of Schedule A appointing authority, under competitive conditions, and with strict limitation on the extent of usage to assist agencies in correcting adverse impact.
- (c) Use of a variety of selection techniques under Schedule A to improve the opportunities for hiring those who are in the occupational categories which reflect adverse impact.

ORGANIZATION

The material which follows would require the Commissioners to

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reorganize and redirect our affirmative action staff in two directions.

- First to place all elements of special employment programs under common direction.
- Second to encourage agencies to do consolidated planning for special emphasis programs. This implies a willingness on the part of the Commissioners to accept agency decisions on the priority to be given to selection of individuals in different categories. Similarly, it implies that the Commission will restrain criticisms of slow progress in particular areas if overall progress is at an acceptable level.

ADVERSE IMPACT ANALYSIS

Affirmative action should, of course, be present in all hiring, developmental and promotion activities. We should continue to stress to the agencies the importance of that policy.

With respect to the Commission's actions it is desirable that we concentrate our limited resources on targets of maximum opportunity. I define these to be occupations where there is evidence of adverse impact and where there are at least 2,000 Federal employees. A special analysis is being made of those 140 occupational categories which had more than 2,000 employees on November 30, 1976.

From these analyses we expect to determine in which occupational codes there is sufficient adverse impact that additional selection methods should be used. This determination will take into account the following criteria.

A. For Clerical Occupations

Adverse impact will be considered to exist if the proportion for any category of employees (women or minority group) to total employment is less than 95% of the proportion of adult population (ages 18-65) in that category of employees. For example, if women occupied less than 49% ($95\% \times 51.6\%$) of the positions in a clerical occupation on November 30, 1976, or received less than 49% of appointments during 1976, there would be evidence of adverse impact. (NOTE: The 95% figure is higher than Federal Executive Agency guidelines of 80%, but is reasonable in terms of the labor supply for most clerical positions.)

B. For General Schedule Administrative and Technical Positions

Adverse impact will be considered to exist if the proportions of individuals hired or employed for any category of employees to total new hires or total employed is less than 80% of the adult employable population in that category of employees. The 80% cutoff is consistent with the Federal Interagency Guidelines on selection. For example, if women occupied less than 41.3% ($80\% \times 51.6\%$) of the positions in an administrative or technical category or received less than 41.3% of appointments in 1976, there would be evidence of adverse impact. This evidence could be rebutted if factual evidence were available to show that the numbers of competent and available women in the labor force was

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less than 51.6%

C. For Professional Positions

Adverse impact will be considered to exist if the proportion of new hires in the previous year for any category of employees to total new hires is less than 80% of the proportion of individuals in that category completing professional training during the last six (6) years. For example, if 6% of engineering graduates have been Black over the last six (6) years, there would be evidence of adverse impact if less than 4.8% (80% of 6%) of engineers hired during the previous year were not Black.

D. Blue Collar Positions

Adverse impact will be considered to exist if the proportion of new hires in the previous year for any category of employees to total new hires is less than 80% of the working population in the age range 18-40. (NOTE: The population is limited to those under 40 to account for the historical evidence of discrimination against minorities and women in the blue collar occupations.)

E. Positions For Handicapped Persons

Where there is substantial evidence that persons are being excluded from a particular occupation because of handicapping conditions a determination of adverse impact may be made.

The determination that there is evidence of adverse impact will be made on the basis of nationwide data. It should not be considered a determination by the Commission that discrimination has, in fact, occurred or affected any individual or group. Rather, it is a signal that, whether or not the examination has been adequately validated, the Commission should seek alternative selection methods of equal or greater validity which might have a lesser adverse impact. This approach is consistent with the Federal Executive Agency guidelines.

While data is to be calculated initially for only 140 of the most populous occupational codes, the analytical principles described above may be applied to other categories where the Commission or agencies believe there is an indication of adverse impact.

COMMISSION ACTION WHERE THERE IS EVIDENCE OF ADVERSE IMPACT

When it has been determined that there is evidence of adverse impact in a particular occupational code, the Commission's regional offices would be authorized to permit agencies to use Schedule "A" appointing authority and to use special selection methods suitable to that particular occupation. The use of Schedule "A" is based on the fact that the Commission has not irrefutably established the validity of its examinations nor shown that there are not alternative selection methods which might have a lesser adverse impact. Thus there is a basis for concluding that it is impracticable to examine for all positions in that occupation, while at the same time using the best available methods (competitive examinations)

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in filling the bulk of positions. In effect the use of Schedule "A" creates a research opportunity to find better selection systems. The use of alternative selection methods coupled with an extended period of evaluating performance on the job may well demonstrate the value of these alternative selection systems in reducing adverse impact. The use of alternative selection methods in these situations is called for in the new Federal Executive Agency guidelines.

- Such authorization would be for a limited time period (e.g. five years) and would be subject to revocation if the evidence of adverse impact in an occupational category had disappeared.
- Special selection methods would require new hire appointees to meet the normal minimum qualification requirements unless the Commission decided that those requirements were questionable.
- New hires under special selection methods would not exceed a percentage of total new hires in that occupational category determined by the Commission after consultation with the appointing authority.
- Appointments made under Schedule A would be limited to a two year period. During this period there would be frequent evaluations to determine whether the individual should continue to serve. If the individual successfully completed two years of service, he/she would be entitled to conversion to a career conditional appointment. The determination that the individual had satisfactorily completed the two year period would involve a serious

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review of the individual's performance. A supervisory certification, standing alone, would not be sufficient. The individual's service under this type of Schedule "A" appointment would count toward the three years required for permanent career status.

- Agencies would be barred from taking into account political affiliation or endorsement in making these appointments.
- The granting of Schedule "A" authority is permissive and would not require the agency to use the authority nor to select any specific number or type of individuals under the authority.

AUTHORIZED SPECIAL SELECTION METHODS

The Commission would approve the special selection methods listed below. In each method

- There may be no discrimination or reverse discrimination because of race, sex, national origins, religion, age, marital status, or handicapping condition.
- Veterans preference must be observed.

The approved methods are

A. Superior Students

An individual who establishes a superior record of scholastic achievement (e.g. a high grade average or high class rank) might be selected on that basis, but only after considering veterans preference. Competition would be among those superior students

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expressing an interest in selection by a specific appointing authority.

B. Special Qualification Requirements

An agency which determines that certain cultural, language or experience factors are essential may limit its consideration to those who meet such requirements. In the absence of a sufficient number of qualified persons on the regular civil service register, it may construct with Commission approval a special selection instrument.

C. Selective Use of Established Registers

Agencies may from time to time and subject to the numerical limits on use of Schedule "A" authority, request the Commission to permit the agency to construct selection lists from a civil service register in two parts. Part "A" would follow the normal register order. Part "B" would be limited to individuals who are in the categories where there is evidence of adverse impact. Agencies may then select from either part, but must use normal register order within that part. Those selected from Part "A" would receive career conditional appointments. Those selected from Part "B" would receive Schedule "A" appointments.

D. Selection Lists of Those Economically Disadvantaged Persons Who

Have Demonstrated Their General Competence

A selection list may be constructed by an agency with CSC approval which is limited to economically disadvantaged persons.

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Such individuals must have demonstrated competency through successful participation in a Federal, state or local program of education, training, or work. Examples of these programs include, but are not limited to, the Work Incentive Program (WIN), Neighborhood Youth Corps, Job Corps, Work Experience, In-school and Out of school employment programs, special tutorial activities, return to school programs and correctional rehabilitation programs. Persons from a disadvantaged background who have served satisfactorily in the military services may also be included on such selection lists. Veterans preference must be applied.

E. Selection Lists of Those Who Have A Handicapping Condition

A selection list may be constructed by an agency with CSC approval which includes persons with handicapping conditions. Such individuals must have successfully participated in a program of rehabilitation or have demonstrated successful performance in a work situation. Veterans preference must be applied.

These special methods are in addition to already approved methods for filling positions such as upward mobility for employees of the agency and cooperative education developed with two and four year higher education institutions. The proposed program is illustrated in Attachment "A".

IMPLEMENTATION

The basic vehicle for implementation of this program will be 3-5 year

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agreements entered into by an appointing authority and the appropriate Regional Director of the Civil Service Commission. These agreements would take into account (for purposes of determining the need for and level of excepted appointments) such factors as the composition of the work force for an occupation in that particular organization and the potential availability of competent candidates insofar as that can be determined. The agreement will not require the agency to hire any specific number or types of individuals through Schedule A, but it will contain information on the agency's goals and timetables.

The Civil Service Commission will commit itself to a five (5) year research program designed to (a) assess the validity of the special selection methods and (b) to measure their effects on adverse impact.

HOW THE SYSTEM WOULD WORK

I - THE COMMISSION DETERMINES WHETHER THERE IS ADVERSE IMPACT.

EXAMPLE

The data below relates to Code 201 - Personnel Management

	Ages 20-55 Proportion of Population	80% Criterion For Administrative Positions	Nov. 30, 1976 Employment	Appointments during 1976
Men	51.6%	41.3%	33.4%	42.1%
Blacks	10.6%	8.5%	9.6%	5.3%
Spanics	5.1%	.2%	2.2%	1.3%
American Indians	.3%	.2%	.7%	N.A.
Asian Americans	.8%	.6%	1.1%	N.A.

In this analysis there is (a) evidence of adverse impact on women based on employment, not on 1976 hirings; (b) evidence of adverse impact on Blacks based on 1976 hirings, not on employment levels; (c) evidence of adverse impact on Hispanics based on both criteria; and (d) no evidence of adverse impact on American Indians and Asian Americans.

EP II - THE COMMISSION AUTHORIZES USE OF SPECIAL SELECTION METHODS AND THE USE OF SCHEDULE "A" FOR A PROPORTION OF ENSUING VACANCIES

EXAMPLE

The agency will fill fifty positions. CSC might authorize filling of not more than 10 through special methods such as

- Superior Students
- Special Qualifications Registers
- Use of established registers under 3 plus 3 rule
- Special selection lists limited to economically disadvantaged persons
- Special selection lists for handicapped persons.

EP III - AFTER TWO YEARS OF EVALUATING COMPETENCY AND PERFORMANCE, SUCCESSFUL EMPLOYEES ARE CONVERTED TO CAREER CONDITIONAL.

EXAMPLE

- +5 - Converted with satisfactory service
- 5 - Discharged because they have not proven their competency

PROGRAMS WITH SPECIAL EMPHASIS ON EMPLOYMENT

1. Selective Placement Program for the physically impaired
2. Selective Placement Program for the mentally retarded
3. Selective Placement Program for the mentally restored
4. Unpaid Work Experience Program

Programs designed to assist handicapped persons in obtaining and retaining employment consistent with their levels of skills and abilities and their capacity for safe and efficient job performance.

5. Employment of Disabled Veterans
6. Employment of Public Offenders
7. Work-Release Program

A program enabling agencies to participate, through agreements with State Rehabilitation Agencies, in the development and supervision of unpaid work experience programs for handicapped persons under host-enrollee agreements.

Recently enacted P.L. 93-508 (Vietnam Era Veterans Readjustment Assistance Act of 1974) requires agencies to fully support employment programs for disabled veterans, including the need to develop affirmative action plans.

It is Federal Government policy to hire selectively rehabilitated public offenders for jobs where they are needed and for which they are qualified.

Prisoner Rehabilitation Act of 1965 and D.C. Work-Release Act of 1966 authorizes establishment of programs whereby selected inmates could be employed by Federal agencies on work-release, for jobs for which shortages of qualified applicants exist.

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8. Veterans Readjustment Appointments

A program enabling agencies to appoint recently discharged Vietnam Era Veterans on an excepted basis, with provision for conversion to career positions after 2 years service.

9. Displaced Employee Program

A program to provide special placement assistance to Federal career employees who have been displaced from their positions.

10. Summer Employment - Examination

Agencies have traditionally employed temporary workers during the summer months to fill in for vacationing employees or for short-term assignments. The size and scope of participation is determined by the agencies themselves. These various programs identified are used by agencies in making appointments.

11. Summer Employment - Agency Merit Staffing Plans

12. Federal Summer Intern Program

13. Federal Junior Fellowship Program

14. Summer Aid (Needy Youths)

Agencies employ needy youth 16 through 21 years of age under this Program. Students may work up to 16 hours per week during school year and 40 hours during extended vacation periods.

15. Stay-In-School Campaign

A long-range staffing program under which agencies appoint students to jobs specifically related to educational objectives. Programs are conducted under the aegis of a Presidential Executive Order which provides for non-competitive conversion into the Career Service.

17. Cooperative Education for Nonbaccalaureate Students

Agencies provide study-related work experiences for students attending 2-year college and secondary schools. Students are required to compete in Civil Service examinations for appointment to the Career Service.

18. College Work-Study Program

This is a grant program administered by the Department of HEW. Funds are provided to the college to provide employment for students who need financial assistance to continue educational pursuits. Federal agencies are authorized by statute to provide work-site opportunities. These are not Federal employees.

19. Vocational Education Work-Study Program

Authorized by "The Vocational Education Act." Federal agencies are authorized to provide work-site experiences for students enrolled in Vocational Schools. Students are paid out of Federal grants and are not considered to be Federal employees.

20. Work Incentive Program

Administered by the Department of Labor under funds made available through an amendment to the Social Security Act. Program is directed to heads of households with dependent children receiving Public Assistance. Federal agencies are authorized to provide work experiences which might enable these recipients to acquire skills which might assist them in entering and remaining in the work force. Participants are not Federal employees.

21. Comprehensive Employment and Training Act Program

Under legislation administered by the Department of Labor, State and local governmental jurisdiction provide employment in areas of high unemployment. Persons working under these programs may be assigned duties with Federal agencies. They are not Federal employees.

22. Equal Employment Opportunity Program Programs for providing equal employment opportunities in the Federal service.
23. Federal Women's Program
24. Spanish-Speaking Program
25. Age Non-Discrimination Program Government-wide program to assure non-discrimination in Federal employment on account of age.
26. Intergovernmental Mobility Assignments The Intergovernmental Personnel Act authorizes the temporary assignment of personnel between Federal, State and local governments and institutions of higher education.
27. Vista/Peace Corps Volunteers CSC authorizes non-competitive entry into the competitive service for persons who have completed volunteer tours in Peace Corps or Vista.

ADDENDUM TO A PLAN FOR SPECIAL
EMPHASIS EMPLOYMENT PROGRAMS

(NOTE: This material follows item "E" on page 10.)

F. Alternative Register With Lottery Feature

An agency could request the Civil Service Commission to prepare an alternative register consisting of the better qualified persons on the register; i.e. those in the top 50% of the regular register. The order of listing on the alternative register would be determined by lot. Veteran's preference would be applied prior to reconstructing the register. This method should help to determine whether there are significant differences in performance when employees are selected from a broader band of consideration.

G. Minimally Qualified Trainee Registers For Economically Disadvantaged

An agency could, with CSC approval, fill a portion of its positions as trainee positions and at a salary rate one grade lower than the established grade for the position. The trainee register would be limited to those specifically applying for trainee status who can demonstrate that they (a) meet minimum job qualifications and (b) would have qualified (or did qualify) as economically disadvantaged under the Economic Opportunity Act.

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Individuals could be promoted to the full salary rate after serving a period of time specified by CSC.

(NOTE: This material comes at the end of paragraph "C" on page 5.)

In the absence of available data on a particular occupation, the average college enrollment figures for 1970, 1972 and 1974 will be used. These are

Blacks	7.4%
Hispanics	2.2%
American Indians	.6%
Asian Americans	.9%
Women	45%*

* Based on Bachelor's Degrees awarded.